

INITIAL STATEMENT OF REASONS
(Definitions and Abbreviations)
May 16, 2006

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) (see Government Code Sections 8574.1 through 8670.72) provides, in part, for the development of oil spill contingency plans for tank vessels, nontank vessels and marine facilities. These plans are to be used to prepare for the response effort that would be necessary in the event of a discharge of oil into the marine waters of the State. The Administrator is required to establish regulations and guidelines that provide for the best achievable protection of the coastal and marine resources, and ensure that all areas of the coast are at all times protected by prevention, response, containment and clean-up equipment and operations.

California Code of Regulations Title 14, Subdivision 4, Chapter 1, Section 790 contains the definitions and abbreviations that are used in the regulations promulgated under the Act. The proposed amendments are needed to add new definitions and abbreviations, and to further clarify existing definitions and abbreviations. The specific purpose for each adoption, amendment, or repeal contained in these proposed regulations is set forth below. (Grammatical/technical changes have also been made throughout this subchapter, which have no regulatory effect):

Section 790 DEFINITIONS AND ABBREVIATIONS

Subsection (a)(1) has been amended to clarify that the term “Act” means not only the existing Lempert-Keene-Seastrand Oil Spill Prevention and Response Act but any amendments that may be made in the future.

Subsection (b)(1) has been amended to clarify that the designation is “facility transfer area”. This is the amended term that is now used in Subsection (f)(2).

Subsection (b)(4) has been rearranged to mirror the statutory definition of “Best Achievable Protection” found in Government Code Section 8670.3(b)(1). Also, reference to current and historical prevention measures, practices, and technology have also been added. This is a clarifying change that will make the Best Achievable Protection definition more comprehensive by including consideration of historical and current practices and technology, without significantly deviating from the definition found in statute.

Subsection (b)(5) has been amended to reference to current and historical technology. This is a clarifying change that will make the Best Achievable Technology definition more comprehensive by including consideration of historical and current technology, without significantly deviating from the definition found in statute in Government Code Section 8670.3(c)(1).

Subsection (c)(2) has been repealed as that term is no longer used in the contingency plan regulations, and has also been repealed in CCR [old] Sections 817.02(d)(4) and 818.02(d)(4). The new subsections contain a clearer description of what was meant by “cascadable, which is the equipment that may be moved, upon approval of the Administrator, to respond to a catastrophic spill in another area.

[New] Subsection (c)(10) has been added to explain what is meant by “Culturally Sensitive Sites” which are mentioned in CCR Section 817.02(c)(3). Culturally sensitive sites are to be identified so that resources can be directed to protect these sites in an event of an oil spill. Giving examples of what locations are considered culturally sensitive will help the regulated community comply with this requirement and ensure that appropriate culturally sensitive sites are identified.

Subsection (d)(2) has been added to reiterate the definition from Government Code Section 8670.3(d). “Dedicated Response Resources” is used frequently in CCR Sections 817.02, 818.02 and 827.02, and including the definition here will inform the regulated community of its meaning and scope in those regulations.

[Old] Subsection (d)(3) has been repealed. “Derated Capacity” is more commonly known in the regulated community as “Effective Daily Recovery Capacity”. Therefore “Derated Capacity” has been repealed and its definition moved to “Effective Daily Recovery Capacity”, which is being added in Subsection (e)(2).

[New] Subsection (e)(1) has been added to explain what is meant by “Economically sensitive sites” which are mentioned in CCR Section 817.02(c)(3). Economically sensitive sites are to be identified so that resources can be directed to protect these sites in an event of an oil spill. Giving examples of what locations are considered economically sensitive will help the regulated community comply with this requirement and ensure that appropriate economically sensitive sites are identified.

[New] Subsection (e)(2). The term “Effective Daily Recovery Capacity” replaces “Derated Capacity”. See old (d) (3) above.

[New] Subsection (e)(3) has been added to reiterate the definition from Government Code Section 8670.3(e). Identifying Environmentally Sensitive Sites is required in CCR Section 817.02(c)(3). Adding the definition here will inform the regulated community of its meaning and scope as used in these regulations.

Subsection (f)(2) has been amended for necessity. Defining “Facility Transfer Area” as an area where oil transfers occur (other than High Volume Ports) as opposed to a definite geographic area will ensure that all areas where transfers occur are included. This is important because the areas included in “Facility Transfer Area” have enhanced on-water recovery requirements (in CCR Sections [new] 818.02(d)(3)(A)(4) and 827.02(h)(2)(B)(2)) due to the exposure and potential risk from oil transfer operations.

Subsection (g)(2) has been amended to add Area Contingency Plan numbers. These areas are commonly referred to and understood by their ACP numbers, so adding them here will provide a familiar frame of reference for the regulated community.

Subsection (g)(3) has been added to clarify what a Geographic Response Plan is. This term is used throughout CCR Sections 817.02, 818.02, and 827.02.

Subsection (g)(4) has been added to clarify what a Geographic Response Plan Area (GRA) is. These areas are smaller subdivisions of some ACP areas and are subdivided based on their geographic features. Using GRA's, if available provides a geographic range to determine appropriate response capabilities.

Subsection (i)(1) has been amended to reflect a technical change to the title of the California Oil Spill Contingency Plan.

Subsection (l)(6) has been amended to reflect the definition from Government Code Section 8670.3(f). "Local government" is used in CCR Sections 817.02, 818.02 and 827.02, and including the definition here will inform the regulated community of its meaning and scope in those regulations.

Subsection (m)(1)(B) has been amended to reflect the definition from Government Code Section 8670.3(g)(1). "Marine facility" is used in CCR Sections 817.02, 818.02 and 827.02, and including the definition here will inform the regulated community of its meaning and scope in those regulations.

Subsection (m)(3) has been amended to reflect the definition from Government Code Section 8670.3(i), which was recently changed by SB 1742 (Chapter 796, Statutes of 2004). Including the definition of "marine waters" here will inform the regulated community of its meaning and scope.

[Old] Subsection (n)(2) has been repealed as that term is no longer used in the contingency plan regulations, and has also been repealed in CCR [old] Sections 817.02(d)(4) and 818.02(d)(4). The new subsections contain a clearer description of what was meant by "non-cascadable, which is the equipment that may not be moved, unless approved by the Administrator, to respond to catastrophic spill in another area.

[New] Subsection (n)(2) has been added to clarify the difference between dedicated and non-dedicated response resources. (Dedicated has been defined in Subsection (d)(2)). The difference is important because certain amounts of dedicated and non-dedicated resources are specified in the contingency plan regulations. Generally, dedicated resources are required in the early hours of a spill response; non-dedicated resources are allowed later in a spill response when there is time to arrange for additional resources. Making this distinction is important so the regulated community can comply with these requirements.

Subsection (n)(4) has been amended to reflect the definition from Government Code Section 8670.3(i). Including the definition of “nontank vessel” here will inform the regulated community of its meaning and scope

Subsection (o)(6) has been added to clarify that the oil spill contingency plans are the plans that are required in Sections 815.05 and 825.03 of this subdivision.

[New] Subsection (o)(7) has been amended to reflect the definition from Government Code Section 8670.3(q)(1). “OSRO” is used throughout the subdivision, and including the definition here will inform the regulated community of its meaning and scope.

Subsection (p)(9) has been repealed for clarity. “Primary Response Contractor” is the old term for “Oil Spill Response Organization” (which is defined in this chapter). Removing this term will eliminate confusion for the regulated community.

Subsection (q)(2) has been amended to clarify that even though the names implies an “individual”, in reality a QI can be a company which has been designated in a contingency plan to provide the services as described.

Subsection (r)(1) has been added to reflect the definition from Government Code Section 8670.3(q)(2).

[Old] Subsection (r)(5) has been repealed for clarity. “Response Contractor” is the old term for “Oil Spill Response Organization” (which is defined in this chapter). Removing this term will eliminate confusion for the regulated community.

Subsection (s)(2) has been added to explain the “Sensitive Site Strategy Evaluation Program” (SSSEP), which is managed by the Administrator. This program fulfills the requirements of new CCR Section 820.01(f), which requires that shoreline protection response strategies identified in the new Shoreline Protection Tables are exercised to ensure that these are the most feasible and effective strategies to use during an actual oil spill.

[New] Subsection (s)(4) has been added to describe the Shoreline Protection Tables (SP Tables) and their applicability, and have been incorporated by reference. These SP Tables show the sites to be protected, the hour by which they should be protected, and the response resources required to provide initial protection. The information in the SP Tables provides a standard for BAP for shoreline protection, as required by Government Code Sections 8670.28(a)(9) and 8670.29(g).

[New] Subsection (t)(2) has been added for clarity. The term “tank ship” has been referred to the definition of “tanker”, which is the more commonly used term in these regulations. Listing both terms, and their relationship, will help eliminate confusion to the regulated community.

Subsection (v)(1) has been amended to reflect the definition from Government Code Section

8670.3(gg). “Vessel” is used throughout the subdivision, and including the definition here will inform the regulated community of its meaning and scope.

Subsection (v)(4) has been repealed for clarity. “Vessel Traffic Information Service” is the old term for “Vessel Traffic Service” (which is defined in this chapter). Removing this term will eliminate confusion for the regulated community.

Subsection (v)(6) has been removed for clarity. See explanation for (v)(4) above.

DOCUMENTS RELIED UPON

Technical, theoretical or empirical studies or reports relied upon:

°None

BUSINESS IMPACT

The OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No alternative which was considered by the OSPR would be more effective than or equally as effective as and less burdensome to affected private persons than the proposed amended regulations

COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.2(b)(6), 11346.5, and 11349(f)

The regulations, do not conflict with Federal statutes or regulations.